

**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
PUBLIC HEALTH HEARING OFFICE**

In re: Jorge L. Dominguez

Petition No. 2003-0924-000-065  
June 17, 2004

**MEMORANDUM OF DECISION**

*Procedural History*

On March 22, 2004, the Department of Public Health ("the Department") filed a Statement of Charges ("the Charges") against Jorge L. Dominguez ("respondent") notifying him that the Department was seeking an order revoking or imposing other disciplinary action against his asbestos abatement worker certificate ("the license"). Rec. Exh. 1.

On April 1, 2004, the Department issued a Notice of Hearing ("the Notice") scheduling a hearing for May 10, 2004. In the Notice the Commissioner of the Department appointed this Hearing Officer to rule on all motions, determine findings of fact and conclusions of law, and issue an order. Rec. Exh. 2.

On April 29, 2004, the Department filed a Motion to Deem Allegations Admitted. Rec. Exh. 3. On May 10, 2004, the undersigned granted that Motion. Tr. p. 5.

On May 10, 2004, an administrative hearing was held to adjudicate the Charges. The hearing was conducted in accordance with Chapter 54 of the Connecticut General Statutes and §§19a-9-1, *et seq.* of the Regulations of Connecticut State Agencies ("the Regulations"). Respondent neither appeared at the hearing nor requested that it be continued. Tr. p. 5. The Department appeared at the hearing represented by Attorney Linda Fazzina.

This Memorandum of Decision is based entirely on the record and sets forth this Hearing Officer's findings of fact, conclusions of law, and order. To the extent that the findings of fact actually represent conclusions of law, they should be so considered, and

vice versa. *SAS Inst., Inc. v. S & H. Computer Systems, Inc.*, 605 F. Supp. 816 (M.D. Tenn. 1985).

### *Allegations*

1. In paragraph 1 of the Charges, the Department alleges that respondent, has been the holder of Connecticut asbestos abatement worker certificate number 001463. The Department further alleges that the certificate was current during the time period from on or about June 1, 2003 to on or about September 30, 2003, and that the Department has not renewed and/or reinstated asbestos worker certificate number 001463.
2. In paragraph 2 of the Charges, the Department alleges that on or about November 30, 2000, the Department initially issued asbestos abatement worker certificate number 001463 to respondent. The Department further alleges that as part of his initial application, respondent submitted a certificate from Princeton industrial Training Institute that indicated he had passed an examination on or about August 4, 2000 and had successfully completed a training program of a four day asbestos abatement worker course.
3. In paragraph 3 of the Charges, the Department alleges that on or about September 9, 2003, the Department was notified by Princeton Industrial Training Institute that it has no training facilities in the State of Connecticut and that Mr. Jorge L. Dominguez has never attended an Asbestos Abatement Worker Course conducted by Princeton Industrial Training Institute.
4. In paragraph 4 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §20-437 and §§20-440, taken in conjunction with, 20-440-5(d)(1), 20-440-6(b) 20-440(7)(c)(3) of the Regulations of Connecticut State Agencies.

### *Findings of Fact*

1. Respondent had actual notice of the hearing on May 10, 2004. Rec. Exh. 5.
2. An investigation commenced, and the Charges were issued, within eighteen (18) months of the time period within which respondent held the license. Rec. Exh. 1.
3. Pursuant to the undersigned's Ruling of May 10, 2004, granting the Department's Motion to Deem the Allegations Admitted of April 29, 2004, all of the above

allegations are deemed admitted and true. Rec. Exh. 3; *see also*, §19a-9-20 of the Regulations.

### *Discussion and Conclusions of Law*

Pursuant to *Conn. Gen. Stat.* §§19a-14 and 19a-17, the Department has the authority to discipline an asbestos consultant license including, but not limited to, the authority to revoke said license. Further, pursuant to *Conn. Gen. Stat.* §19a-332e and §20-440-6 of the Regulations, the Department may assess an asbestos consultant a civil penalty of up to \$10,000 per incident.

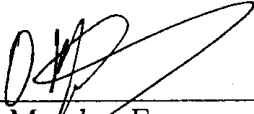
In establishing the underlying violations to support such discipline, the Department bears the burden of proof by a preponderance of the evidence. *Swiller v. Comm'r. of Public Health*, CV-950705601, Superior Court, J.D. Hartford/New Britain at Hartford, October 10, 1995; *Steadman v. SEC*, 450 U.S. 91, 101 S. Ct. 999, reh'g den., 451 U.S. 933 (1981); *Bender v. Clark*, 744 F. 2d 1424 (10th Cir. 1984); *Sea Island Broadcasting Corp. v. F.C.C.*, 627 F. 2d 240, 243 (D.C. Cir. 1980); all as cited in *Bridgeport Ambulance Service, Inc., v. Connecticut Dept. of Health Services*, No. CV 88-0349673-S (Sup. Court, J.D. Hartford/New Britain at Hartford, July 6, 1989); *Swiller v. Commissioner of Public Health*, No. CV 95-0705601 (Sup. Court, J.D. Hartford/New Britain at Hartford, October 10, 1995).

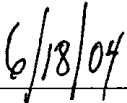
In view of the granting of the Department's Motion to Deem Allegations Admitted, the Department has established the violations noted above by a preponderance of the evidence. The evidence also established that the Department commenced its investigation and initiation of disciplinary action within eighteen months of when respondent held the license, as required by *Conn. Gen. Stat.* §19a-14a.

The Department has requested that respondent's license be revoked. Rec. Exh. 1. This remedy is fully supported by the record. Respondent committed fraud in obtaining his license, has not been properly trained to work as an asbestos worker, and is not qualified for licensure. Respondent's license is therefore revoked.

***Proposed Order***

Based on the record in this case, the above Findings of Fact and Conclusions of Law, this Hearing Officer orders that: respondent's asbestos worker certificate number 001463 is hereby revoked.

  
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Olinda Morales, Esq.  
Hearing Officer

  
\_\_\_\_\_  
Date